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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,889	10/01/2003	Shih-Ta Liu	DF-02800	9706
28960	7590	02/21/2006	EXAMINER	
HAVERSTOCK & OWENS LLP			AGARWAL, MANUJ	
162 NORTH WOLFE ROAD			ART UNIT	
SUNNYVALE, CA 94086			PAPER NUMBER	
			3764	

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/677,889	Applicant(s) LIU, SHIH-TA	
	Examiner Manuj Agarwal	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some * c) ☐ None of:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| <ul style="list-style-type: none"> 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | <ul style="list-style-type: none"> 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____. |
|--|---|

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second opening 31 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to because a valve 2 is not shown in fig B1 as stated in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5,7-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Howard (US 6,277,052).

Regarding claim 1, Howard discloses a device for sucking a body. Referring to fig 3, the device comprises a vacuum generator 100, a reservoir 304 for providing a filling medium stored therein, a shield for covering an area of the said body 40, a first tube 106 communicating said shield with said vacuum generator and a second tube 122 for communicating said shield with said reservoir.

Regarding claim 2,12,15,19, the device further comprises at least one opening 38 for communicating the first and second tube.

Regarding claims 3,4, the first and second tube are combined as a combination tube 115 through a connector 94.

Regarding claims 5,16, the vacuum generator is an electrical pump (col. 4 lines 37-41).

Regarding claim 7, fig 5 shows a valve 302 for controlling a communication of said second tube (col. 7 lines 31-43).

Regarding claims 8,17, Howard's device further comprises a controller 78. This controller comprises a microprocessor, memory and circuit elements arranged for

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providing control logic. Controller 78 is connected via a line 98 for carrying control signals to the vacuum pump 100, and is connected via a line 86 for carrying control signals to an actuator 90, which is adapted to control a three-way valve 94.

Timers 65,66,67, as well as the start and stop buttons 61 and 62 allow for the setup, generation and release of negative pressure (col. 4 lines 3-36).

Regarding claims 9,18, fig 3 shows that the filling medium can be oxygen, a gas.

Regarding claim 10, fig 5 shows that the filling medium is provided to the shield via a tank or can.

Regarding claim 11, figs 2a-2g show a variety of shields 40 that may be selected for use.

Regarding claim 14, see rejection of claim 1. Furthermore, referring to fig. 4

(a) step 406

(b) step 408

(c) When the vacuum pressure in shield 40 is released, as in step 416, it is filled oxygen, or other suitable gas, instead of air (col. 7 lines 31-43). This oxygen is the filling medium provided in a reservoir (see rejection of claim 9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Howard.

Howard discloses the claimed invention except for multiple vacuum generators. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a number of vacuum generators for they would perform the identical function of providing a suction force. Furthermore, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Claims 13,20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard in view of Liu (US 5,902,293).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Howard lacks a shield that comprises a vibrating mechanism. The prior art is abundant in devices that perform suction therapy, especially in the area of breast pumps. One such apparatus is disclosed by Liu. This suction device comprises a vacuum generator 3 coupled to a shield via a first tube 2. Attached to the shield is a vibrator 4. The vibrator is provided to enhance the curative effects of the suction therapy. It would have been obvious to one of ordinary skill at the time the invention was made to provide the suction device of Howard with a vibrator as taught by Liu in order to enhance the effects of the suction therapy.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. US 6,926,681. Ramey et al. Method and System for Performing MicroAbrasion and Suction Massage. Reservoir for providing a stored filling medium, vacuum generator, etc.

2. US 6,398,767. Fleischmann. Process and Device for Application of Active Substance to a Wound Surface Area. Reservoir for providing a stored filling medium, vacuum generator, etc.

3. US 6,200,292. French et al. Suction and Irrigation Handpiece and Tip.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuj Agarwal whose telephone number is (571) 272-4368. The examiner can normally be reached on Mon to Fri 9:00 AM 5:30 PM.

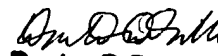
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571)272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Manuj Agarwal
Patent Examiner

MA



Danton D. DeMille
Primary Examiner